

**Minutes of City Council
December 15, 2020
Regular Session**

The Council of the City of Lewisburg met in regular session on Tuesday, December 15, 2020 at 7:30 p.m. in the Paul R Cooley Council Chambers at 942 Washington St West, Lewisburg, WV.

PRESENT: Mayor Beverly White; Recorder Shannon Beatty; Council members, Heather Blake, Josh Edwards, Sarah Elkins, Mark Etten, and Arron Seams; Interim City Manager Misty Hill; Fire Chief Joseph Thomas; Planning & Zoning Officer Marsha Cunningham, Director of Public Works Roger Pence and Police Chief Chris Teubert.

ABSENT: Susan Honaker

VISITORS: Reporter Sarah Richardson with the Mountain Messenger, Tina Alvey with the Beckley Register Herald; Anna Saunders with WOAY; Sharon Hayes, and Roger Kennedy with Chapman Technical Group.

CALL TO ORDER:

Mayor White called the meeting to order at 7:30 p.m.

APPROVAL OF MINUTES:

November 17, 2020

Councilmember Edwards made a motion to approve the November 17, 2020 regular session minutes as corrected. Councilmember Seams seconded the motion. With all in favor the motion carried.

COMMUNICATIONS FROM THE MAYOR:

Mayor White asked Council to observe a moment of silence for the past year of social unrest and the Covid-19 pandemic. She thanked all of the volunteers, first responders, Board & Commission members, City employees, City Council and school children for their patience during the year 2020.

COMMUNICATIONS FROM THE INTERIM CITY MANAGER:

Rt. 219 North Sidewalk project bid update

Roger Kennedy with Chapman Technical Group gave a project bid update for the Route 219 North Sidewalk project. He stated the contractor (Tempo) that withdrew its bid has made an offer to pay the City for the cost of one of the bid bonds. Tempo Construction had withdrawn their bid because they had underbid the project.

He noted it was probably in the best interests of the City to accept their offer instead of pursuing a law suit which he felt could be costly to recoup the cost of the bid bonds owed to the City when the contractor withdrew their bid. He noted that City Attorney White could not represent the City in this matter because of a conflict of interest with the bonding agent (Nationwide Insurance). He stated the City was still on track with the second bidder Mountaineer Contractors for the project.

Councilmember Etten asked if Tempo Construction had taken out a bid bond wasn't Nationwide Insurance obligated to pay the bid bond. Kennedy stated he had contacted the President of Tempo Construction and had called Nationwide Insurance to file a bid bond claim. He noted he was told by Nationwide Insurance the bid bond request had to emanate from Tempo Construction, the contractor, not the City of Lewisburg. He stated it is up to the contractor to follow through on the bid bond. Councilmember Edwards stated if Tempo Construction was offering to pay 50% of the bid bond they owe, it might be worth it to consult with a lawyer. Kennedy stated the project was 90 days beyond the 60 days bid period. He stated he did not want the City to lose the bid from Mountaineer Contractors. Edwards stated he believed the City could accept the 2nd bid from Mountaineer Contractors and pursue a legal remedy for the bid bond.

Councilmember Edwards made a motion to pursue legal options for the breach of contract by Tempo Construction using an attorney recommended by City Attorney White. Councilmember Etten seconded the motion. With all in favor the motion carried.

Councilmember Etten made a motion to accept the 2nd bid for the Route 219 North Sidewalk project Phase II and III from Mountaineer Contractors.

Councilmember Edwards stated he would like the motion to include language that the City Engineers had recommended the city accept the bid.

Councilmember Etten withdrew his motion.

Councilmember Edwards made a motion to accept the 2nd bid for the Route 219 North Sidewalk Project Phase II and III from Mountaineer Contractors as recommended by Chapman Technical Group. Councilmember Seams seconded the motion. With all in favor the motion carried.

VISITORS REPORT:

Lewisburg landowner Sharon Hayes approached City Council with concerns regarding a strip of land she owns adjacent to the 2.5 acre property the City under contract to build a new fire station. Hayes stated that she was approached by Fire Chief Thomas over the summer asking if she would be willing to sell a 50 foot-wide strip of land to the City. Hayes indicated that after a conversation with Interim City Manager Misty Hill she was concerned the City might be planning to acquire the 50-foot strip of land by eminent domain. She stated that she never told Thomas she was willing to sell her land and had received notice of a recent Planning Commission meeting via certified mail regarding a minor subdivision or she would not have known discussion was happening concerning her property. She asked why the City had purchased property for the Fire Station if it was not enough land. Fire Chief Thomas stated the new fire station can fit on the purchased property but that the fire truck's 42-foot turn radius cannot be made without the extra 50 foot-strip. He stated the property was purchased after a decade long search and that there was almost no land within the City limits left on which to build a fire station. Interim City Manager Hill stated that Thomas had tried several times to reach out to Hayes to discuss the 50-foot strip of land without hearing back from Hayes. Councilmember Seams stated that he had not participated in any discussions as a member of the City Council and felt that a discussion of eminent domain was getting ahead of the situation. Both Seams and

Etten indicated that they have not yet seen any plans for a building on the site. Mayor White thanked Hayes for bringing her concerns before City Council.

COMMUNICATIONS FROM THE INTERIM CITY MANAGER CONTINUED:

Employee Incentive Pay

Councilmember Seams made a motion to approve option B Employee Incentive Pay as presented. Councilmember Blake seconded the motion. With all in favor the motion carried.

Financial Statements ending September 30, 2020

Treasurer Susan Honaker included the financial statements for review by City Council. Because Honaker was absent from the meeting, Councilmember Etten stated he would reach out to her with his questions.

Engagement letter with City Attorney Tom White/Dinsmore & Shohl, LLP

Council member Etten stated he had some questions that needed clarification before he would be agreeable to approving the engagement letter. He noted that between the cover letter and the agreement Council had been presented with two different fee arrangements. Councilmember Edwards agreed that clarification was needed.

Councilmember Etten made a motion to table the engagement letter/agreement with City Attorney White until the January 2021 City Council meeting pending clarification. Councilmember Edwards seconded the motion. With all in favor the motion carried.

Task Order #33 Chapman Technical Group

Councilmember Seams made a motion to approve Task Order #33 Chapman Technical Group for surveys for the new fire station in an amount not to exceed \$36,000. Councilmember Elkins seconded the motion. With all in favor the motion carried.

Funding Source for Barnette property purchase

Interim City Manager Hill stated she received notice from City Attorney White this item needed to be tabled

Councilmember Etten made a motion to table action on the funding source for the Barnette property purchase until the January 2021 City Council meeting. Councilmember Edwards seconded the motion. With all in favor the motion carried.

Monthly Report

Interim City Manager Misty Hill reported on the following items of interest:

- Was excited to announce the PSD report was going to be completed by December 30, 2020.
- Stated that Alpha Music had installed speakers in the greenspace that was used to broadcast Christmas music there during the holiday season.
- Has been diligently working on issues that come up regarding Covid-19.
- Has been attending ZOOM conference calls with the Governor's office regarding Covid-19.
- Participated in a tour of the water plant and fire station with the City's engineering firm.
- Has planned a Santa drive through all over the City for the children to enjoy. A Christmas Parade cannot be held because of Covid-19 this year.

COMMUNICATIONS FROM CITY COUNCIL MEMBERS:

No Communications were given.

COMMUNICATIONS FROM BOARDS AND COMMISSIONS:

Planning Commission Report

Zoning Officer Marsha Cunningham reported on the following events of the December 3 and 10, 2020 Planning Commission meetings:

- Doug Beard and Francis Smith McCloud had submitted an application for a conditional use permit for a West Virginia Limited Lottery site in a C2 zoning district. The applicants met the requirements of the WV State Lottery, however according the City Codified ordinances lottery sales are not permissible in a C2 zoning district. The North Jefferson Street location, zoned C2, does not as of this time allow video lottery sales. Because it is not permissible the Planning Commission could not vote on the matter.
- A working session with WVU Law was held on December 10, 2021.

COMMUNICATIONS FROM THE POLICE DEPARTMENT:

Police Chief Teubert reported the Police Department answered 182 calls for service in November.

COMMUNICATIONS FROM THE FIRE DEPARTMENT:

Fire Chief Thomas reported the Fire Department responded to 78 emergency calls in November.

Fire Department Standard Operating Guidelines

Public Safety Chair Arron Seams stated the proposed changes recommended by the Public Safety Committee were mostly procedural changes.

Councilmember Seams made a motion to approve the changes to the Fire Department Standard Operating Guidelines as presented. Councilmember Etten seconded the motion. With all in favor the motion carried.

PUBLIC WORKS COMMITTEE:

Director of Public Works Pence reported on the following issues:

- The Public Works Department is still sourcing equipment to complete the water plant maintenance that is needed. He noted he has had a difficult time locating compatible filter equipment because of the age of the equipment at the Water Plant.
- He stated he now has a quote for the repair of the Boggs Water Tank.
- The Streets Department is busy preparing for an upcoming snow storm.
- The Public Works crews have been placed into separate crews to reduce the likelihood of Covid-19 infection.

Harris Brother Task Order #4 Final Payment

Pence stated this was the final payment for the roof replacement at City Hall.

Councilmember Edwards made a motion to approve task order #4 for the final payment on the roof repairs at City Hall in the amount of \$13,750. Councilmember Blake seconded the motion. With all in favor the motion carried.

EXECUTIVE SESSION:

Councilmember Seams made a motion to enter into executive session at 9:05 p.m. to discuss the City Manager position and the Volunteer of the Year award. Councilmember Elkins seconded the motion.

Councilmember Edwards made a motion to reconvene into regular session at 9:56 p.m. Councilmember Blake seconded the motion. With all in favor the motion carried.

Councilmember Seams made a motion to name the Greater Greenbrier Covid-19 Task Force as the Annual Volunteer of the Year. Councilmember Elkins seconded the motion. With all in favor the motion carried.

ADJOURNMENT:

Councilmember Seams made a motion to adjourn the meeting at 9:57 p.m. Councilmember Edwards seconded the motion. With all in favor the motion carried.